

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Castro Cuadro Antonelly, Plaintiff, -v- Grivance Officer Nasau County Jail <i>et al.</i> , Defendants.	2:23-cv-8256 (NJC) (JMW)
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MEMORANDUM AND ORDER

NUSRAT J. CHOUDHURY, United States District Judge:

On November 27, 2024, Defendant “Grivance Officer Nasau County Jail”¹ (“Nassau County”), filed a Motion to Dismiss the Complaint. (ECF No. 36.) On December 11, 2024, Magistrate Judge James M. Wicks issued a Report and Recommendation (the “R&R”) recommending that Nassau County’s Motion to Dismiss be granted and that the Complaint be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”) due to the failure of Plaintiff Castro Cuadrado Antonelly (“Antonelly”) to prosecute this action. (R&R, ECF No. 36.) A copy of the R&R was filed on the Court’s Electronic Docket on December 11, 2024. (*Id.*) The Clerk of Court mailed a copy of the R&R to Antonelly at his last known address of record on December 12, 2024. The R&R instructed that any objections to the R&R must be submitted in writing to the Clerk of Court within fourteen (14) days of service. (R&R at 8.)

More than fourteen days have elapsed since the R&R was published on the Court’s docket on December 11, 2024, and fourteen days have elapsed since the R&R was mailed to

¹ Excerpts from Plaintiff’s submissions are reproduced here exactly as they appear in the original. Unless otherwise noted, errors in spelling, punctuation or grammar will not be corrected or highlighted.

Antonelly at the address of record on December 12, 2024. No party has filed an objection to the R&R. In reviewing a report and recommendation, the court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If no objections are filed, a district court reviews a report and recommendation for clear error. *King v. Paradise Auto Sales I, Inc.*, No. 15-cv-1188, 2016 WL 4595991, at *1 (E.D.N.Y. Sept. 2, 2016) (citation omitted); *Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007)).

Because a motion to dismiss is dispositive, and because no party has filed timely objections to the R&R, I review the R&R for clear error. Having conducted a review of Nassau County’s Motion to Dismiss and the applicable law, and having reviewed the R&R *de novo* out of an abundance of caution, I adopt the thorough and well-reasoned R&R in its entirety. Accordingly, I grant Nassau County’s Motion to Dismiss the Complaint (ECF No. 36). I dismiss the Amended Complaint without prejudice pursuant to Rule 41(b), Fed. R. Civ. P., due to Antonelly’s failure to prosecute this action.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

The Clerk of Court is respectfully directed to mail a copy of this Order to Antonelly at his address of record and to record such mailing on the docket.

Dated: Central Islip, New York
January 2, 2025

/s/ Nusrat J. Choudhury
NUSRAT J. CHOUDHURY
United States District Judge